

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ABBOTT LABORATORIES,

Plaintiff,

- against -

CAROL FEINBERG,

Defendant.

ECF Case

Consolidated Case No. 18-cv-8468 (LGS)

CAROL FEINBERG,

Plaintiff,

- against -

ABBOTT LABORATORIES,

Defendant.

Related Former Case No. 19-cv-600 (LGS)

**(UNOPPOSED) MOTION TO
SUBSTITUTE DECEASED PARTY**

PURSUANT TO FED. R. CIV. P. 25(a), Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg, as co-executors of the Estate of Carol Feinberg, respectfully move for their substitution in place of Carol Feinberg as the Defendant and Plaintiff, respectively, in the above-captioned consolidated actions, pursuant to the following facts:

1. Carol Feinberg passed away on October 11, 2019.
2. By Certificate of Appointment of Executors by the Surrogate's Court of the State of New York, New York County dated December 10, 2019, Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg (Carol Feinberg's children) have been appointed co-executors and fiduciaries of the Estate of Carol Feinberg, with Letters Testamentary having been issued on

December 4, 2019. A true and correct copy of the December 10, 2019 Certificate of Appointment of Executors is attached hereto as Exhibit A.

3. By operation of Carol Feinberg's Last Will and Testament dated May 29, 2018, the oil painting at issue in this litigation (the "Painting") is now held by the Estate of Carol Feinberg, which is now legally represented by Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg.

4. Due to Ms. Feinberg's passing, in conjunction with the designation of Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg as the legal representatives of the Estate of Carol Feinberg, the appropriate parties in interest to legally represent the Estate of Carol Feinberg in connection with the Painting and the above-captioned consolidated actions are Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg.

5. Complete diversity is maintained in this action as Abbott Laboratories ("Abbott"), the counter-party to the above-captioned actions, is a citizen of the State of Illinois; Nancy Feinberg is a citizen of the State of New York; Hope Feinberg Schroy is a citizen of the State of Massachusetts; and David Feinberg is a citizen of the State of Massachusetts.

6. Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg represent that the Painting shall remain property of the Estate of Carol Feinberg, and shall not be distributed to any other person, until there is a final and non-appealable order determining ownership of the Painting as between the Estate of Carol Feinberg, on the one hand, and Abbott, on the other hand, or else until there is another final resolution or settlement between the Estate of Carol Feinberg and Abbott resolving ownership and possession of the Painting.

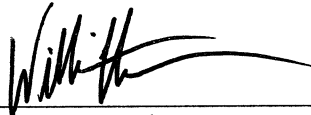
7. Certification: The undersigned counsel has conferred with counsel for Abbott attendant to the instant motion, and Abbott does not object to or oppose the relief sought herein.

WHEREFORE, the co-executors of the deceased Defendant and Plaintiff, respectively, in the above-captioned consolidated actions, Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg, respectfully move before this Court for the entry of an Order substituting Nancy Feinberg, Hope Feinberg Schroy, and David Feinberg as co-executors of the Estate of Carol Feinberg, for Carol Feinberg as Defendant and Plaintiff, respectively, in the above-captioned consolidated actions, pursuant to Federal Rule of Civil Procedure 25(a)(1).

Dated: New York, New York
December 12, 2019

PRYOR CASHMAN LLP

By: _____


William L. Charron
Paul S. Cossu
Giovanna Marchese
wcharron@pryorcashman.com
pcossu@pryorcashman.com
gmarchese@pryorcashman.com

7 Times Square
New York, New York 10036
(212) 421-4100

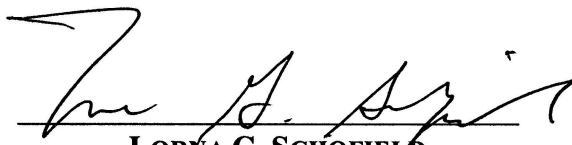
Attorneys for Carol Feinberg and for Nancy Feinberg, Hope Feinberg Schroy and David Feinberg as co-executors of the Estate of Carol Feinberg

The Motion to Substitute is GRANTED.

The parties shall meet and confer to discuss how to proceed with this matter. The discussion shall include whether the parties want to participate in mediation. No later than January 8, 2020, the parties shall file a letter describing the results of the meet and confer and proposing next steps.

SO ORDERED.

Dated: December 16, 2019
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE